

## **A bill to promote the progress of useful arts. [New York**

A BILL to promote the Progress of useful Arts.

Sec. 1. BE *it enacted by the Senate and House of Representatives of the United States of America in Congress assembled* , That upon the petition of any person or persons to the Secretary of State, setting forth that he, she or they, hath or have invented or discovered any new art, manufacture, engine, machine, invention or device, or any improvement upon, or in some art, manufacture, engine, machine, invention or device, not before known or used within the United States, the said Secretary of State shall make out an advertisement, to be inserted by the petitioner in two of the public papers, published at the seat of government of the United States, for the term of eight weeks, once at least in each week, giving notice of such application, and containing a short and general definition of the invention or discovery, requiring all persons concerned to appear before the said Secretary of State, at a certain day and place, in the said advertisement to be inserted, not less than forty-two days, nor more than ninety days next following, to shew cause why letters patent, under the great seal of the United States, should not issue, granting to such petitioner or petitioners the sole and exclusive right, liberty and privilege of making, constructing, using, and vending to others, the inventions, discoveries or improvments aforesaid. And if at the day and place so to be appointed, sufficient cause shall not be shewn to the contrary, it shall and may be lawful to and for the said Secretary of State, and he is hereby required to cause letters patent to be made out in the name of the United States, to bear teste by the President or Vice-President of the United States, reciting the allegations and suggestions in the said petition contained, and thereupon granting to such petitioner or petitioners, his, her, or their executors, administrators or assigns, for the term of fourteen years, the sole and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said invention or inventions, discovery or discoveries, so to be described in short and general terms; which letters patent shall be delivered to the Attorney-General of the United States, to be examined, who shall, within fifteen days next after the delivery to him, certify at the foot thereof, that he hath examined the same, and whether it is conformable to this act, and shall return the same to the President or Vice-President; and if the same shall be so certified to be conformable to this act, then the said President or Vice-President shall sign the same, and cause the great seal of the United States to be thereto affixed, and the said letters to be made patent, and the same shall be good and available to the grantee or grantees by force of this act, to all and every intent and purpose herein contained, and shall be recorded in a book to be kept for that purpose in the office of the Secretary of State, and delivered to the patentee or his agent; and the delivery thereof shall be entered on the record, and indorsed on the patent by the said Secretary, at the time of granting the same.

Sec. 2. *And it is hereby further enacted* , That the grantee or grantees of each patent shall, at the time of granting the same, deliver to the Secretary of State a specification in writing, containing a perfect and exact description, accompanied with drafts and explanations (if the subject matter of such inventions and 2 discoveries shall require the same in order to be understood) of the thing or things by him or them invented or discovered, and generally described as aforesaid in the said patents; which specification shall be so particular as not only to distinguish the invention from other things before known and used within the United States, but also enable a workman or other person skilled in the art, science or manufacture whereof it is a branch, or wherewith it may be nearest connected, to make, construct or use the same, to the end that the public may have the full benefit thereof, after the expiration of the patent term; which specification shall be filed in the office of the said Secretary, and certified copies thereof shall be competent evidence in all courts, and before all jurisdictions, where any matter or thing touching or concerning such patent, right or privilege shall come in question.

Sec. 3. *And it is hereby further enacted* , That if upon the notice so as aforesaid given, any other person or persons shall appear before the said Secretary, and shall shew such cause as to him shall appear reasonable, why letters patent, in manner aforesaid, should not issue to the party petitioning for the same; then and in such case, the said Secretary shall refer the petition aforesaid, and the parties contending, to three indifferent persons, one to be chosen by each of the parties, and the third by the Secretary, who are hereby authorised and required to hear the same; and if upon a hearing of the said parties, it shall appear to them or any two of them, that the thing or things for which a patent is prayed, was or were, before the application to the said Secretary, used by or known within the United States, to others than the petitioners, or those who derived their knowledge thereof from or under him or them, they shall certify the same accordingly, and such certificate shall be deemed a sufficient cause to stay the issuing of such letters patent. And the said referees may require each and every of them to deliver to them such specification of their several inventions or discoveries, as are herein before mentioned, signed with their hands; and upon comparing the same, the said referees shall determine and adjudge whether they are the same both in principle and execution, or whether they differ from each other in any material circumstance; and if they be found so to differ, the said referees, or any two of them, shall certify each of them severally, with their specifications, to the Secretary of State, to the end that such patents as aforesaid may issue; and the said Secretary is hereby required to cause such patents to be made out, proceeded upon and perfected, in the manner herein before mentioned, to each and every of the said parties. And if upon such specification, the inventions or discoveries aforesaid, claimed by two or more parties, shall appear to be substantially the same both in principle and execution, then the said referees shall enquire into and determine the priority of the said inventions or discoveries, and certify the same to the Secretary of State. And if either party is dissatisfied with such determination

of said referees, such party may appeal to the district court at the seat of government, to be heard and tried by a jury in due course of law, and shall within twenty-four hours next after such determination, file in the office of the clerk of such district court, a declaration of the facts to be tried and determined by such jury, and shall thereupon apply to the judge of said court, who is hereby authorised and required to appoint the time and place of trial of said facts, and cause the parties to be summoned to appear before such court, to be heard thereon, and also cause a jury of twelve good and lawful men of said district to be summoned and duly empanelled to hear and try the same, as in other cases of trial by jury; and the verdict of such jury, with the proceedings of such court, shall be entered on the records of such district court; and the costs of suit shall be taxed by the court, and paid by the party against 3 whom judgment shall be awarded: And a copy of such record, certified by the clerk of said court to the said Secretary of State, shall be conclusive evidence of the facts therein contained, and the said Secretary shall proceed thereon accordingly.

*Sec. 4. And it is hereby further enacted* , That if any person or persons shall devise, make, construct, use, employ, or vend, within these United States, any art, manufacture, engine, machine or device, or any invention or improvement upon, or in any art, manufacture, engine, machine or device, the sole and exclusive right of which shall be so as aforesaid granted by patent to any person or persons, by virtue, and in pursuance of this act, without the consent of the patentee or patentees, their heirs, executors, administrators, or assigns, first had and obtained in writing, every person so offending, shall forfeit and pay to the said patentee or patentees, his, her, or their executors, administrators or assigns, such damages as shall be assessed by a jury, and moreover, shall forfeit the full value of the thing or things so devised, made, constructed, used, employed or vended, contrary to the true intent of this act, to be recovered in the district court of the district where the seat of government of the United States is or shall be, by action of debt, bill, plaint or information, wherein no protection or wager of law shall be allowed.

*And whereas* , Notwithstanding the precautions in this act contained, patents or grants of the sole and exclusive right and privilege of making, constructing, using, employing, and vending to others, divers inventions or discoveries, may be obtained surreptitiously, or upon false suggestions, which may not only be prejudicial to individuals, but to the community: *Be it therefore further enacted* , That upon oath or affirmation made before the judge of the said district court, that any patent, which shall be issued in pursuance of this act, was obtained surreptitiously by, or upon false suggestion, and motion made to the said court, within one year after issuing the said patent, but not afterwards, it shall and may be lawful to, and for the judge of the said district court, if the matter alledged shall appear to him to be sufficient, to grant a rule that the patentee or patentees, his, her, or their executors, administrators or assigns shew cause, why process should not issue against him, her, or them, to repeal such patents; and if sufficient cause shall not be shewn to the contrary, the rule shall

be made absolute; and thereupon shall issue and be awarded and issued against the said patentee or patentees, his, her, or their executors, administrators, or assigns, process in the name of him, her, or them, who shall complain thereof, and upon such writ, the proceedings, and judgment shall be such as to repeal the patents; and if the party at whose complaint the process issued, shall have judgment given against him, he shall pay all such costs as the defendant shall be put to in defending the suit, to be taxed by the court, and recovered in such manner as costs expended by defendants shall be recovered in due course of law.

Sec. 5. *And be it further enacted* , That in all actions to be brought by such patentee or patentees, his, her, or their executors, administrators, or assigns, for any penalty incurred by virtue of this act, the said patents or specifications shall be prima facie evidence, that the said patentee or patentees, was or were the first and true inventor or inventors, discoverer or discoverers of the thing so specified, and that the same is truly specified; but that nevertheless the defendant or defendants may plead the general issue, and give this act, and any special matter, whereof notice in writing hath been given to 4 the plaintiff or his attorney, thirty days before the trial, in evidence, tending to prove, that the specification filed by the plaintiff, does not contain the whole of the truth concerning his invention or discovery; or that it contains more than is necessary to produce the effect described; and if the concealment of part, or the addition of more than is necessary, shall appear to have been intended to mislead, or shall actually mislead the public, so as the effect described cannot be produced by the means specified, then, and in such cases, the verdict and judgment shall be for the defendant, any thing in this act contained to the contrary notwithstanding.

Sec. 6. *And be it further enacted* , That any person, who shall after the passing of this act, first import into the United States from any foreign country, any art, machine, engine, device or invention, or any improvement thereon, not before used or known in the said States, such person, his executors, administrators and assigns, shall have the full benefit of this act, as if he were the original inventor or improver within the said States.

Sec. 7. *And be it further enacted* , That such patentee as aforesaid, shall, before he receives his patent, pay the following fees to the several officers employed in making out and perfecting the same, to wit:

Dollars, Cents. For receiving and filing the petition, 1 For making out the advertisement, 1 50 For filing specifications, ten cents per copy, sheet containing one hundred words, For making out patent, 1 For affixing great seal, For endorsing the day of delivering the same to the patentee, including all intermediate services, 25 To each of the referees to whom shall be referred any petition for examining the same, and certifying their opinion, one dollar per day.

New-York: Printed by Francis Childs and John Swaine.

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Bill to promote Arts.

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